



COMMONWEALTH of VIRGINIA

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August 2, 2012

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The Honorable Cynthia P. Morrison, Clerk
Circuit Court for the City of Portsmouth
P. O. Box 1217
601 Crawford Street
Portsmouth, Virginia 23705-1217

BY OVERNIGHT UPS DELIVERY

RE: Danny Meeks, et al. vs. VDOT & ERC OPCO, LLC
Case No. 740CL12001705-00

Dear Ms. Morrison:

Please find enclosed for filing in the above civil case VDOT's Motion For Bill of Particulars.

Thank you for your kind assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "E. Duncan Getchell".

E. Duncan Getchell
Solicitor General of Virginia

Cf:

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The Honorable Cynthia P. Morrison, Clerk
Page 2
August 2, 2012

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Counsel for Elizabeth River Crossings Opco, LLC

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF PORTSMOUTH

DANNY MEEKS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 740-CL-12001705-00
)	
VIRGINIA DEPARTMENT OF)	
TRANSPORTATION, et al.,)	
)	
Defendants.)	

MOTION FOR BILL OF PARTICULARS
BY DEFENDANT VIRGINIA DEPARTMENT OF TRANSPORTATION

COMES NOW the Defendant, Virginia Department of Transportation (hereinafter referred to as "VDOT"), pursuant to Rules 3:7 and 3:8 of the Rules of the Supreme Court of Virginia, and moves the Court for a bill of particulars from the Plaintiffs, Danny Meeks, et al. (hereinafter collectively referred to as "the Plaintiffs"), so as to amplify the Complaint with respect to the factual bases of the cause or causes of action intended against VDOT, and provide it fair opportunity to respond to the Complaint, and in support thereof states as follows:

1. The Plaintiffs herein have sued VDOT and the co-defendant corporate entity, Elizabeth River Crossings Opco LLC (hereinafter referred to as "ERC"), respecting an alleged unconstitutional Public Private Transportation Act Comprehensive Agreement between them, the December 5, 2011 Comprehensive Agreement, with subsequent amendments, (hereinafter referred to as "the Comprehensive Agreement").

2. The Plaintiffs have listed a substantial number of party plaintiffs in their Complaint; some of whom are not named parties, one of whom is listed as a representational

party, and some of whom seem to have differing injuries by virtue of their inability or unwillingness to purchase an electronic transponder. Plaintiffs' listing of the party plaintiffs in such a general manner prevents VDOT from determining appropriate legal concerns it may have regarding any alleged basis for individual standing, representational standing, and ripeness for each of the Plaintiffs.

3. The Plaintiffs further allege numerous disjunctive "Counts" in their Complaint concerning VDOT's authority to enter into the Comprehensive Agreement and certain provisions therein. In the Complaint, and in its seven counts, the Plaintiffs appear to assert alleged constitution-derived injuries to themselves under various provisions of the Virginia and United States Constitutions.

4. Several of the Plaintiffs' constitutional claims appear to contend that the Virginia General Assembly acted inconsistently with its prescribed legislative authority, including taxing powers, and also beyond the lawful scope of their constitutional powers in enacting the Public Private Transportation Act of 1995, Va. Code Sec. 56-556, et seq.

5. Notwithstanding having nominally named VDOT and ERC as party defendants by virtue of their having entered into the Comprehensive Agreement, the Plaintiffs focus on the Virginia General Assembly's alleged actions or omissions calls into question what VDOT conduct may have caused them injury, how VDOT properly may respond to the Complaint's allegations in its own name (and not as a legally questionable surrogate for the Virginia General Assembly), and whether all necessary and proper parties are before the Court.

6. The Court may properly, and should, require the Plaintiffs to file a bill of particulars that amplifies the Complaint in a manner so as to enable VDOT to receive notice of

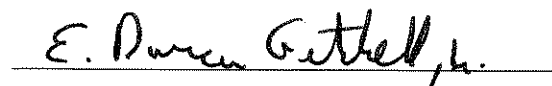
the parties' standing and ability to challenge the alleged conduct of VDOT, to learn what specific alleged conduct on VDOT's part may have caused or contributed to the Plaintiffs' alleged constitution-derived injuries, to determine what cause or causes of action are germane to VDOT as a named defendant, as opposed to the Virginia General Assembly and/or ERC, to evaluate whether the Plaintiffs allege any legally cognizable cause of action against VDOT, to determine whether all necessary and proper parties are before the Court, and otherwise to have a fair opportunity to respond to the Complaint and prepare VDOT's defense in this case.

7. The Defendant, VDOT's, respective responses in the preceding paragraphs address and apply to each and every Count in the Plaintiffs' Complaint.

WHEREFORE, VDOT, by counsel, respectfully requests that this Court require the Plaintiffs to file a bill of particulars to amplify the Complaint as to the parties involved and the specific conduct alleged against VDOT and enable VDOT to properly respond thereto.

Respectfully submitted

VIRGINIA DEPARTMENT
OF TRANSPORTATION

A handwritten signature in black ink, reading "E. Duncan Getchell, Jr.", is written over a horizontal line.

By Counsel

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Counsel for the Defendant, Virginia Department of Transportation

CERTIFICATE OF SERVICE

I certify that on the 31 day of August, 2012, a true copy of the forgoing document was mailed and/or sent electronically to Patrick M. McSweeney, Esq., Robert J. Cynkar, Esq., and Christopher I. Kachouroff, Esq., counsel of record for the plaintiffs, and to Stuart A. Raphael, Esq., Robert M. Tata, Esq., and J. Peter Coll, Jr., Esq., of counsel for ERC.



E. Duncan Getchell, Solicitor General
Commonwealth of Virginia